



## COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663  
(949) 644-3200 Fax: (949) 644-3229

[www.newportbeachca.gov](http://www.newportbeachca.gov)

### CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

June 13, 2012  
Agenda Item 3

**SUBJECT:** Whole Foods Minor Use Permit - (PA2012-050)  
415 Newport Center Drive  
▪ Minor Use Permit No. UP2012-006

**APPLICANT:** Mrs. Goochs Natural Food Markets Inc., dba Whole Foods Market

**PLANNER:** Benjamin M. Zdeba, Planning Technician  
(949) 644-3253, bzdeba@newportbeachca.gov

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### **ZONING DISTRICT/GENERAL PLAN**

- **Zone:** PC-56 (North Newport Center Planned Community)
- **General Plan:** CR (Regional Commercial)

### **PROJECT SUMMARY**

A minor use permit to allow the establishment of a Type 47 (On-Sale General for Bona Fide Public Eating Place) Alcoholic Beverage Control (ABC) license for two dining areas within the new Whole Foods Market.

### **RECOMMENDATION**

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. \_ approving Minor Use Permit No. UP2012-006 (Attachment No. ZA 1).

### **DISCUSSION**

- Retail Sales and Eating and Drinking Establishments are permitted uses within the Fashion Island subarea of the North Newport Center Planned Community Zoning District.

- The applicant is pursuing a Type 21 (Off-Sale General) in addition to a Type 86 (Instructional Tasting) Alcoholic Beverage Control license; however, these license types are ancillary to the retail market use and are permitted by right.
- The applicant is also pursuing the establishment of a Type 47 (On-Sale General for Bona Fide Public Eating Place) ABC license for use in two designated dining areas within the market.
- Pursuant to the Planned Community Text, the on-premise sale of alcohol in conjunction with an eating and drinking establishment requires a minor use permit.
- One 689 square-foot dining area in the northwest quadrant of the store will offer a full line of alcoholic beverages along with a limited menu of food items.
- The other 1,114 square-foot dining area in the northeast quadrant of the store will offer beer and wine in conjunction with the food items available from the adjacent service counters.
- Occasional live entertainment consisting of ambient background music for patrons shopping and/or dining is also proposed. Pursuant to the Planned Community Text, live entertainment falls beneath the definition of "Commercial Recreation and Entertainment" which is a permitted use within the Fashion Island subarea.
- The Fashion Island subarea is a regional commercial shopping center that is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed license will be an accessory component of the retail market that will provide a service to the patrons of the market and Fashion Island.

## **ENVIRONMENTAL REVIEW**

This action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that adding alcohol to the allowed restaurant will have a significant effect on the environment. Therefore, this activity is not subject to CEQA.

## **PUBLIC NOTICE**

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

**APPEAL PERIOD:** An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Prepared by:

  
\_\_\_\_\_  
Benjamin M. Zdeba  
Planning Technician

GR/bmz

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Applicant's Description & Justification
	ZA 4	Police Department Memo
	ZA 5	Plans

# **Attachment No. ZA 1**

Draft Resolution

## **RESOLUTION NO. ZA2012-DRAFT**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH [APPROVING/DENYING] UP2012-006 TO ADD ON-SALE ALCOHOL SALES TO A MARKET LOCATED AT 415 NEWPORT CENTER DRIVE (PA2012-050).**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Valerie Sacks of Liquor License Specialists on behalf of Mrs. Gooch's Natural Food Markets, Inc. dba Whole Foods Market with respect to property located at 415 Newport Center Drive, and legally described as Parcel 2 of Lot Line Adjustment No. LA2008-004 requesting approval of a Minor Use Permit.
2. The applicant proposes to allow the establishment of a Type 47 (On-Sale General for Bona Fide Public Eating Place) Alcoholic Beverage Control (ABC) license for use in two designated dining areas within the new Whole Foods Market.
3. The subject property is located within the Fashion Island subarea of the PC-56 (North Newport Center Planned Community) Zoning District and the General Plan Land Use Element category is CR (Regional Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 13, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

#### **SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

This action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that adding alcohol to an allowed restaurant will have a significant effect on the environment. Therefore, this activity is not subject to CEQA.

#### **SECTION 3. REQUIRED FINDINGS.**

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a minor use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of patrons eating in designated dining areas within the market. Operational conditions of approval recommended by the Police Department relative to the sale of alcohol will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
2. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
3. Fashion Island does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. The proposed use is not located in close proximity to residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools. In accordance with the Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal, the Police Department has reviewed the minor use permit application and has added conditions to ensure that the design and security of the restaurant areas within the market are properly addressed.
4. The provision of alcohol sales to the designated areas within the market will not substantially change the operational characteristics. The use authorized by this permit is not a bar, tavern, cocktail lounge, nightclub or an establishment where live entertainment or dancing is provided. The City has experienced land use conflicts, nuisance issues, and issues requiring police intervention with these types of activities in the past. Prohibition of these uses or activities will minimize potential land use conflicts, nuisances and police intervention.
5. There are several restaurants in the Fashion Island sub-area, which provide alcohol service as an amenity to visitors. The number of alcohol licenses and the type of alcohol service proposed is typical and expected to be found at a regional shopping center such as Fashion Island.
6. The market and included dining areas are permitted in the Fashion Island sub-area of the North Newport Center Planned Community. The on-site consumption of alcohol provides a public convenience by allowing the alcohol in addition to food items offered for sale.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a minor use permit are set forth:

Finding

*B. The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

1. The property is designated “Regional Commercial” (CR) by the Land Use Element of the General Plan. The retail market use is consistent with that designation and is integrated as part of a retail multi-tenant commercial center.
2. The market is within the limits of the cumulative floor area allocated for the Fashion Island portion of the North Newport Center Planned Community.
3. The sit-down food and alcohol components of the market are compatible with the land uses found in Fashion Island.
4. The subject property is not part of a specific plan area.

Finding

*C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

Facts in Support of Finding

1. The PC-56 (North Newport Center Planned Community, Fashion Island Sub-Area) zoning district allows restaurant uses by right and alcohol service upon the approval of a minor use permit by the Zoning Administrator. Fashion Island is intended to be a vibrant regional retail and entertainment center and a day/evening destination with a wide variety of businesses that serve visitors, residents and employees of the area. The proposed alcohol service at the designated dining areas within the market is compatible with other uses within Fashion Island.
2. The proposed conditions of approval ensure that all conflicts with surrounding land uses are minimized to the greatest extent possible or eliminated.

Finding

*D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding

1. The service of alcohol will be restricted to the hours between 11:00 a.m. and 10:00 p.m., daily.

2. There are no residential properties in the immediate vicinity of the market.
3. The operational conditions of approval recommended by the Police Department relative to the sale of alcohol will ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a market with accessory dining and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
4. The market is required to comply with the California Building Code and requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the market.

#### Finding

- E. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

#### Facts in Support of Finding

1. The project site is located within an existing retail, market building. The dining areas within the market are designed and developed for food and beverage service and/or casual sit-down areas to consume food purchased at the market.
2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing infrastructure.
3. The tenant improvements will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

#### Finding

- F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

#### Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute nuisance areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the market.



2. The proposed alcohol service is provided as a public convenience to market patrons utilizing the designated dining areas within the market. The service of alcohol will provide an economic opportunity to maintain a successful business at this location in a way which best serves the quality of life for the surrounding community.
3. As conditioned, the owners, managers and employees selling alcohol shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-006, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 13<sup>th</sup> DAY OF JUNE, 2012.**

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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan and floor plan dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This minor use permit may be modified or revoked by the Zoning Administrator upon a finding of failure to comply with the conditions set forth in Chapter 20.82 of the Municipal Code, other applicable conditions and regulations governing alcohol service, or should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans as they relate to alcohol sales, shall require an amendment to this minor use permit or the processing of a new use permit.
4. Minor Use Permit No. UP2012-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
5. Should the alcohol license be transferred, any future license holders, operators or assignees shall be notified of the conditions of this approval by either the current licensee, business operator, or the leasing company. Future licensees, operators or assignees shall submit, within 30 days of transfer of the alcohol license, a letter to the Planning Division acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this minor use permit.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this minor use permit.
8. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 (On-Sale General for Bona Fide Eating Place) in conjunction with the market as the principal use of the facility.
9. The hours of operation for sales, service and consumption of alcohol are limited from 11:00 a.m. to 10:00 p.m., daily. Any increase in the hours of operation shall be subject to the approval of an amendment to this minor use permit and may be subject to approval by the Zoning Administrator or Planning Commission.

10. The alcoholic beverage sales for the purpose of on-site consumptions shall be limited to the designated dining areas indicated on the floor plan submitted with the application. Any change in the operation of on-sale alcoholic beverage sales or increase in the dining area devoted to alcohol sales for customers shall be subject to the approval of an amendment to this minor use permit issued by the Zoning Administrator.
11. No exterior amplified music, public address speakers, outside paging system, loudspeaker, sound system, or other noise generating device shall be utilized in conjunction with this movie theater.
12. The operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the alcoholic beverage outlet and adjacent properties during business hours, if directly related to the patrons of the subject beer and wine outlet. If the operator fails to discourage or correct nuisances, the Zoning Administrator may review, modify, or revoke this minor use permit in accordance with Chapter 20.96 of the Zoning Code.
13. The area outside of the retail market shall be maintained in a clean and orderly manner. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises. The operator of the movie theater use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
14. All trash shall be stored within dumpsters inside the mall buildings.
15. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Whole Foods Market Minor Use Permit including, but not limited to, Minor Use Permit No. UP2012-006 (PA2012-050). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**Police Department Conditions**

16. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.
17. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
18. The applicant shall post and maintain professional quality signs measuring 12 inches by 12 inches with lettering no smaller than 2 inches in height that read, "No Alcoholic Beverages Beyond This Point" at all exits leading from the dining areas to the market area.
19. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
20. A Live Entertainment Permit issued by the Revenue Division, in accordance with procedures set forth in Chapter 5 of the Municipal Code, shall be required to allow live entertainment as incidental and accessory to the primary uses of the facility as a restaurant/retail market.
21. Dancing shall be prohibited.
22. No games or contests requiring or involving the consumption beer and wine shall be permitted.
23. All owners, managers and employees selling beer and wine shall undergo and successfully complete a certified training program in responsible methods and skills for selling beer and wine. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The movie theater shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
24. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of beer and wine, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

# **Attachment No. ZA 2**

Vicinity Map

# VICINITY MAP



Minor Use Permit No. UP2012-006  
PA2012-050

**415 Newport Center Drive**

# **Attachment No. ZA 3**

Applicant's Description & Justification



## **Attachment A**

Whole Foods Market at Fashion Island

### **Project Description**

Minor Use Permit for Alcoholic Sales/Service/Instructional Tasting

Newport Beach Municipal Code §20.52.020

415 Newport Center Drive

Newport Beach, CA

### Summary of Request

The Applicant, Mrs. Gooch's Natural Food Markets, dba Whole Foods Market, Inc. ("Whole Foods" or "the Applicant"), is requesting a Minor Use Permit for three different alcoholic beverage-related uses: 1) the sale of a full line of alcoholic beverages for off-site consumption at a full-service supermarket (ABC license type 21); 2) an instructional tasting license for a full line of alcoholic beverages within a full-service supermarket (ABC license type 86); and 3) the sale of a full line of alcoholic beverages for on-site consumption at a restaurant located within a full-service supermarket (ABC license type 47). All the requested uses, if approved, are to take place within a 32,440 s.f. supermarket space currently under construction and located within the Fashion Island shopping center at 415 Newport Center Drive.

### Proposed Project

This Application is a request for a Minor Use Permit to allow the sale, dispensing, and instructional tasting of a full line of alcoholic beverages pursuant to three different ABC license types: type 21 – full line, off site consumption; type 86 – full line, instructional tasting; and type 47 – full line, on-site consumption at a restaurant—all to take place within a new, 32,440 s.f., full-service supermarket space currently under construction in the northeasterly portion of Fashion Island ("the Site").

The Site itself is approximately 75 acres in size, and contains almost 150 retail, restaurant, entertainment, and other commercial uses, including four large national chain department stores. The businesses within Fashion Island overwhelmingly cater to an upscale, discerning customer base which appreciates quality and is willing to pay a premium for a higher standard of products and services. Thus, Whole Foods, which is well-known for the very high grade of natural and organic food, beverage, grocery, and related products that it sells, will fit in very well with the other uses on the Site and the existing customer base.

Whole Foods opened its first store in 1980 in Austin, Texas, and now, several decades later, is the leader in natural and organic foods, with more than 310 stores in North America and the United Kingdom. Whole Foods actively seeks out the finest natural and organic foods available, and maintains the strictest quality standards in the industry. Whole Foods' customers rely on the company to provide a generous selection of fresh, organic, minimally processed foods devoid of the types of artificial additives, sweeteners, colorings and preservatives found so frequently in foods sold at other supermarkets.

Project Description - Minor Use Permit for Sale, Dispensing, and Instructional Tasting of Alcohol

Within Full Service Supermarket (Types 21, 47, and 86)

Whole Foods Fashion Island



The Applicant's corporate philosophy is obviously an important factor in the exponential growth in the number of locations since the first location opened only a few decades ago. Its physical expansion has been accompanied by an expansion in the range of products and services that are offered within its locations. Thus, some of the larger and newer Whole Foods Supermarkets have expanded to include a curated selection of natural and organic products for face and body; coffee, tea, and juice bars; connoisseurs' cheese counters and olive bars; sushi bars; aisles of prepared food which can be consumed in seating areas within the supermarket; dedicated areas where one can order a variety of hot entrees to be consumed on-site or "to go"; and even wine bars within the supermarket, with periodic "wine tasting" events.

The Applicant's vision for its Newport Beach location is to include all of these types of products and services, including periodic instructional tastings of wine, beer and spirits and dedicated areas where patrons can either select food from aisles of preprepared items or order them to be prepared hot at a counter, and sit down with a glass of beer or wine. This location will also feature a sit-down restaurant area which will serve a full range of alcoholic beverages along with food service.

The Applicant believes that its supermarket with the sale of a full line of alcoholic beverages for off-site consumption, as well as for on-site consumption at instructional tasting events or within the restaurant areas, will be a welcome addition to the wide mix of upscale uses already on the Site. It will also be well buffered from the surrounding area by a large parking area, and is surrounded by commercial uses on all sides.

#### Sale of Alcohol for Off-Site Consumption (Type 21)

The requested Conditional Use Permit to sell a full line of alcoholic beverages for off-site consumption is an essential component of the Applicant's vision for its Fashion Island location. Alcoholic beverage items typically only comprise a small percentage of the total gross receipts in each supermarket, but their availability is important to stores' financial viability because customers expect to be able to purchase these items when they do their grocery shopping. The intended customers for the liquor sales are people who are primarily at the store for typical grocery-type products—as expansively construed by Whole Foods-- and who appreciate the convenience of being able to purchase these items while they do the rest of their shopping. It is customary and expected that full-service supermarkets such as Whole Foods will carry these items, and the requested Minor Use Permit is needed in order for the Applicant to be able to meet its customers' expectations in this regard.

#### Instructional Tasting (Type 86)

As noted above, in addition to the food and grocery items the Applicant intends to offer within this location, Whole Foods seeks a Minor Use Permit to enable it to sell an extensive selection of wine, beer, and spirits. The Applicant's request for Minor Use Approval for an instructional tasting license as an adjunct to its type 21 license is in order to be able to further enhance its customers' shopping experience by providing an appropriate mechanism for its customers to

evaluate and understand the fine wines and other alcoholic beverage products that the Applicant seeks to sell. The instructional tasting license, a "Type 86," is a new license type that was created pursuant to Business and Professions Code §§23396.6 and 25503.56 in January of 2011. This license is available to holders of qualified off-sale retail licensed businesses. The Applicant would like the City's permission to invite its vendors in from time to time to present its products to interested adults and educate them on the nuances of fine wines, craft beers, and spirits. Therefore, the Applicant is requesting a Minor Use Permit to enable instructional tasting at this location.

#### In-Store Restaurants (Type 47)

Another of the features that Whole Foods has in mind for its Fashion Island location is an extensive restaurant/dining area where food can either be obtained by self-serve or by ordering it, and where alcoholic beverage items can be ordered from staff.

The Applicant has two separate restaurant areas planned. At the northerly corner of the store, the Applicant will have a 689 s.f. area where a full line of alcoholic beverages will be available, along with a limited menu of items, both of which patrons can order at the "bar" area and take to their seats within that portion of the store or in the adjacent 1,315 s.f. patio (2,004 s.f. total full service dining area). Sample menus from Whole Foods' Huntington Beach location have been included with the application materials to illustrate the types of items envisioned for this location. Patrons may also select from any of the many prepared food options that will be available along the northeasterly part of the store, such as pizza, sushi, sandwiches, salads, soups, and other deli and hot food items, and then take those items to the restaurant/bar area and order beer, wine, or liquor.

Alternatively, at the opposite corner of the store, the Applicant will have a (1,114 s.f.) area where only beer and wine will be available. Patrons may purchase food from the selection of items available along the northeasterly part of the store, take them to the easterly corner of the store, order a glass of wine or a beer, and consume these items in this area or the adjacent 121 s.f. patio (3,348 s.f. total "casual dining" area).

In either case, customers will not be permitted to take any alcoholic beverage items outside of the two designated interior areas or the adjacent patios. Both the interior areas and the patios will be monitored and supervised by a team member. The interior areas will have employees at the registers and taking orders; the patios will have employees at hostess stations in the corner of each patio, as well as cameras that will be monitored at all times. The restaurant areas will be open from 11 a.m. to 10 p.m. daily, although the supermarket itself will be open from 7 a.m. to 11 p.m. daily.

## **Attachment B**

Whole Foods Market at Fashion Island

Proposed Findings

Minor Use Permit for Alcoholic Sales/Service/Instructional Tasting

Newport Beach Municipal Code §20.52.020

415 Newport Center Drive

Newport Beach, CA

### 1. The use is consistent with the General Plan and any applicable specific plan.

The proposed use is designated as CR-Regional Commercial under the General Plan, and is not located within a specific plan area. In terms of the CR-Regional Commercial uses and guidelines relevant to the proposed project, the Land Use Element states that this designation “is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents.” The Land Use Element further states that these types of uses are typically “integrated into a multi-tenant development” with at least one “anchor” tenant.

The Applicant’s proposed full-service supermarket with off-site sales of a full line of alcoholic beverages, on-site sales of a full line of alcoholic beverages at within-store restaurants, and on-site consumption of these items at occasional instructional tasting events conducted within the store is fully consistent with this General Plan designation. The Applicant’s supermarket will be located within a large regional shopping center, Fashion Island, and integrated stylistically with the other uses on the Site. Fashion Island is known for the diverse collection of upscale commercial uses throughout the center, including boutiques, department stores, restaurants, and services. These businesses overwhelmingly cater to a discerning customer base which appreciates quality and is willing to pay a premium for a higher standard of products and services. Thus, Whole Foods, which is well-known for the very high grade of natural and organic food, beverage, grocery, and related products that it sells, will fit in very well with the other uses on the Site and the existing customer base.

The requested Minor Use Permit to allow the sale, dispensing, and instructional tasting of a full line of alcoholic beverages pursuant to three different ABC license types: type 21 – full line, off site consumption; type 86 – full line, instructional tasting; and type 47 – full line, on-site consumption at a restaurant—is consistent with this General Plan designation. The request for permission for a type 21, sale of a full line of alcoholic beverages for off-site consumption, is in order for the Applicant to be able to sell items which its customers, like most customers of full-service supermarkets, expect to be able to purchase while they do the rest of their grocery shopping. In terms of the other uses, the fact that Whole Foods seeks to host a variety of different uses under the same roof will enhance its compatibility with the surrounding businesses. Whole Foods does not see itself as a typical supermarket, but seeks to provide an exceptionally satisfying shopping experience. It achieves this goal not only because of the very

Project Description – Minor Use Permit for Sale, Dispensing, and Instructional Tasting of Alcohol  
Within Full Service Supermarket (Types 21, 47, and 86)

Whole Foods Fashion Island

high quality of goods and services that it provides, but also because of the ambiance it seeks to create within its stores. Likewise, Fashion Island is not just a place where people go to run their errands; rather, it is an environment in which shoppers are surrounded by a curated selection of stores and restaurants in a cohesively designed environment. In this regard, the Applicant's request for a Minor Use Permit for instructional tasting and for the service of a full line of alcoholic beverages at the on-site restaurants are part of an overall effort to make shopping at this location an experience beyond what one typically expects when purchasing grocery items.

For all of these reasons, the proposed use is consistent with the General Plan.

2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

The Site of the proposed sale of alcoholic beverages for on and off-site consumption pursuant to the requested Minor Use Permit is in the North Newport Center Planned Community District (PC 56 zone). The North Newport Center Planned Community District ("North Newport District" is comprised of seven sub-areas, including Fashion Island, and is governed by the North Newport Center Planned Community Development Plan ("Plan").

The Plan states that Fashion Island is the primary retail hub within Newport Center, and describes it as being developed with "retail, dining, and commercial entertainment uses." Permitted uses include these existing uses and compatible uses that support or complement those uses. As stated in the Plan, "Fashion Island is intended to be a vibrant regional retail and entertainment center and a day/evening destination with a wide variety of uses that will service visitors, residents, and employees of the area."

The Applicant's proposed full-service supermarket with off-site sales of a full line of alcoholic beverages, on-site sales of a full line of alcoholic beverages at within-store restaurant, and on-site consumption of these items at occasional instructional tasting events is fully consistent with this zone designation. The Applicant's supermarket will be located within Fashion Island, and integrated stylistically with the other uses on the Site. Fashion Island is renowned for the wide variety of upscale commercial uses on the Site, including boutiques, department stores, restaurants, and services. The overall effect is that a visit to Fashion Island is a destination in itself, and more of an entertainment experience than a typical shopping experience. Whole Foods' request for a Minor Use Permit to enable it to incorporate restaurants and instructional tasting events within the supermarket, along with the customary sale of a full line of alcoholic beverages for off-site consumption, is fully consistent with this Plan goal.

The request for permission to sell a full line of alcoholic beverages for off-site consumption is in order for the Applicant to be able to sell items which its customers, like all customers of full-service supermarkets, expect to be able to purchase while they do the rest of their grocery shopping, a permitted use in this zone category. In terms of the other uses, the fact that Whole

Project Description – Minor Use Permit for Sale, Dispensing, and Instructional Tasting of Alcohol  
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Whole Foods Fashion Island

Foods seeks to conduct a variety of different uses within the same supermarket will enhance its compatibility with the intentions for this District. Whole Foods is not an ordinary supermarket, but seeks to provide an exceptionally satisfying shopping experience, which it does not only because of the very high quality of goods and services that it provides, but also because of the ambiance it seeks to create within its stores. Likewise, Fashion Island is not just a place where people go to run their errands; rather, it is an environment in which shoppers are surrounded by a curated selection of stores and restaurants in a cohesively designed environment. In this regard, the Applicant's request for a Minor Use Permit for instructional tasting and for the service of a full line of alcoholic beverages at the on-site restaurants are part of an overall effort to make shopping at this location an experience beyond what one typically expects when purchasing grocery items, thereby enhancing the Plan goals for this area.

Finally, in terms of the physical requirements of the PC 56 zone, the Applicant's supermarket will fully comply with all setback, floor area, height, and other requirements. The existing structure was previously approved by the Building Department per permit number 1096-2007 (shell building and site work), and the tenant improvements for Whole Foods were approved per permit number 2244-2011.

Thus, for all of the above reasons, the requested Minor Use Permit will permit a use which is allowed within this zone and complies with all other applicable provisions of the Zoning Code and Municipal Code.

3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

In terms of the design, location, and size of the use, the requested Minor Use Permit is an operational permit only. The supermarket itself will involve remodeling and tenant improvements of an existing structure, but improvements to the existing structure have been previously approved by the Building Department per permit number 2244-2011 (Whole Foods). The building itself was previously constructed in compliance with permit number 1096-2007 (shell building and site work). Therefore, the City has already determined that the supermarket will be physical suitable in terms of the design, location, and size of the use.

In terms of the operating characteristics of the use, the Applicant's proposed full-service supermarket with off-site sales of a full line of alcoholic beverages, on-site sales of a full line of alcoholic beverages at the within-store restaurants, and on-site consumption of these items at occasional instructional tasting events will be operated or conducted in a manner which will be fully consistent with the other uses in the vicinity. The Applicant's supermarket is located within Fashion Island, and integrated stylistically with the other uses on the Site. Fashion Island is renowned for the wide variety of upscale commercial uses on the Site, including boutiques, department stores, restaurants, and services. The overall effect is that a visit to Fashion Island is a destination in itself, and more of an entertainment experience than a typical shopping

Project Description – Minor Use Permit for Sale, Dispensing, and Instructional Tasting of Alcohol  
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Whole Foods Fashion Island



experience. Whole Foods' request for a Minor Use Permit to enable it to incorporate restaurants and instructional tasting events within the supermarket, along with the customary sale of a full line of alcoholic beverages for off-site consumption, is fully consistent with these other uses, which combine entertainment with shopping.

The store hours will be 7 a.m. to 11 p.m. daily. The hours of sale of alcoholic beverages for off-site consumption will be coterminous with store hours. However, alcoholic beverages will only be served at the on-site restaurants between the hours of 11 a.m. to 10 p.m. daily.

Instructional tasting events will be restricted to the hours 12 p.m. – 9 p.m. These hours are consistent with, but more limited than, the hours of operation elsewhere in the shopping center. For example, Starbucks opens at 4:30 a.m. The restaurants within Fashion Island have varying hours, but two of the fine dining establishments, Roy's Hawaiian Fusion and Fleming's Prime Steakhouse and Winebar, close at 11 p.m. Island Cinema has showings that end after midnight. Therefore, Whole Foods' proposed hours of operation and alcohol service are less extensive than the hours at the shopping center overall, and its operating characteristics are consistent with the surrounding uses in this regard as well.

Moreover, Whole Foods has a very extensive employee training program with respect to the sale of alcoholic beverage items. Whole Foods has an outstanding record of compliance, not just with the California ABC but wherever its markets are located. Thus, the Applicant can be relied upon to ensure that none of the negative impacts sometimes associated with the irresponsible sale of alcoholic beverage products take place here, and to ensure that its operations are compatible with the surrounding uses.

For all of the above reasons, the design, location, size, and operating characteristics of the proposed use will be compatible with the allowed uses in the vicinity.

4. The site is physically suitable in terms of design, location, size, operating characteristics, and the provision of public and vehicle (e.g., fire and medical) access and public services and utilities.

In terms of the design, location, and size of the use, the requested Minor Use Permit is an operational permit only. The supermarket itself will involve remodeling and tenant improvements of an existing structure, but improvements to the existing structure have been previously approved by the Building Department per permit number 2244-2011 (Whole Foods). The building itself was previously constructed in compliance with permit number 1096-2007 (shell building and site work). Therefore, the City has already determined that the supermarket will be physical suitable in terms of the design, location, and size of the use.

In terms of the utilities, fire and medical access, and public services, Whole Foods is to be located in a large regional shopping center which has been designed in an integrated and cohesive matter. The Applicant anticipates that its customer base will draw heavily from those

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who are already at Fashion Island to shop, dine, attend a movie, visit service providers within the Center—or who work at these other businesses. Moreover, its proposed hours of operation and alcohol service will be less extensive than the hours at the shopping center overall. Therefore, the Applicant does not anticipate that the supermarket itself will have any impact on the need for these services.

In terms of the alcohol sales and service, Whole Foods has a very extensive employee training program with respect to the sale of these items. Whole Foods has an outstanding record of compliance, not just with the California ABC but wherever Whole Foods Markets are located. Thus, the Applicant can be relied upon to ensure that none of the negative impacts sometimes associated with the irresponsible sale of alcoholic beverage products take place here. As a result, the Applicant does not anticipate that any of the requests pursuant to this MUP -- the sale of alcoholic beverages for off-site consumption at a full-service supermarket, the sale of alcoholic beverages for on-site consumption at the restaurants within the supermarket, or the occasional instructional tasting of these items -- will have any impact on the need for public services.

For all of the above reasons, the Site of the Applicant's proposed Minor Use Permit for the sale and service of a full line of alcoholic beverages will be physically suitable for the use in terms of the design, location, size, operating characteristics, and the provision of public and vehicle access and public services and utilities.

5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety or general welfare of persons residing or working in the neighborhood of the proposed use.

The Applicant does not believe that the requested Minor Use Permit for the sale of a full line of alcoholic beverages will be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety or general welfare of persons residing or working in the neighborhood of the proposed use. Rather, the Applicant believes that the proposed use will be of benefit to the community.

In terms of the sale of alcoholic beverages for off-site consumption and the instructional tasting license, the Applicant will provide a safe, convenient location where responsible consumers of alcoholic beverages can sample them before purchasing, or purchase outright. With respect to all of the alcohol-related uses covered by the requested Minor Use Permit, the Applicant's supermarket is to be located within a large regional shopping center, and will be very well buffered from any sensitive uses by the other uses in the center, the parking areas, the wide streets surrounding the center, and the cluster of hotel, golf course, and other commercial uses in the vicinity of Fashion Island. The Applicant believes that its customer base will draw heavily

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from those who are visiting Fashion Island for other purposes, whether to shop, run errands, visit other restaurants or the cinema, take advantage of other service providers within Fashion Island – or to work at any of these places. The Applicant believes that the proposed sale and service of a full line of alcoholic beverages for on and off-site consumption at a location which is thoroughly buffered by surrounding uses and is just one part of a large, cohesive collection of complementary uses will be beneficial to the harmonious and orderly growth of the City, and will not constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Moreover, the Applicant has sold these products in its other stores for several decades now, and has an excellent record of compliance with the ABC in California, and other regulatory agencies wherever Whole Foods Markets are located. In fact, Whole Foods has an extensive training program for its employees to ensure that these items are managed responsibly. These facts indicate that the Applicant can be relied upon to sell, serve, or host tastings of a full line of alcoholic beverages at this location in a safe and responsible manner. The Applicant welcomes input from the community, the ABC, the Police Department, and Planning Staff, pertaining to operational conditions on the grant which will ensure that none of the negative impacts sometimes associated with alcohol sales occur at this location.

In terms of the instructional tasting events, the Applicant believes that the opportunity for customers to sample these products will be a pleasant and inviting amenity to its customers in general. At the same time, the Applicant hopes that these occasional tastings will draw interest to this new location and help attract new customers to the store. Once these customers have come to the store to experience highlights from the expansive selection of wines, beers, and liquors, they may find themselves returning on a regular basis not only for these items but for the wide variety of high quality grocery and other offerings at the store.

The request for permission to sell a full line of alcoholic beverages for off-site consumption is in order for the Applicant to be able to sell items which its customers, like all customers of full-service supermarkets, expect to be able to purchase while they do the rest of their grocery shopping. Whole Foods' customers, like customers of most full-service supermarkets, expect to be able to purchase these items while they do the rest of their grocery shopping. The ability to purchase these items while doing their other shopping is beneficial not only to the Applicant's customers, it is also beneficial to the surrounding uses and the community as a whole. The ability to purchase a full line of alcoholic beverages at a full-service supermarket is rarely associated with the kinds of negative impacts sometimes associated with the purchase of alcohol, and this is particularly the case when a large company with an excellent reputation both overall and in terms of its management of these items is involved.

With respect to the restaurant uses, the Applicant's concept for these in-store restaurant areas is to provide a quality and selection of fresh food items available to be consumed on-site, but to create a more vibrant atmosphere by having a full line of alcoholic beverage items available to

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accompany patrons' meals. This is consistent with the Applicant's overall concept for its Fashion Island location, which is to make visiting its store about much more than just getting one's grocery shopping done. As is the case with the experience of visiting at Fashion Island overall, the goal is to combine shopping and entertainment, so that patrons' visits to Whole Foods is part of an enjoyable outing. The Applicant's plans for these in-store restaurants include a variety of security measures, including monitored security cameras, employee supervision of patio areas, and extensive employee training, as is the practice at all Whole Foods locations. These in-store restaurants will be only two of many restaurants with alcohol service in the shopping center, and in that regard as well, will be compatible with the surrounding uses.

For all of these reasons, the Applicant believes that the requested Minor Use Permit will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety or general welfare of persons residing or working in the neighborhood of the proposed use.

Project Description – Minor Use Permit for Sale, Dispensing, and Instructional Tasting of Alcohol  
Within Full Service Supermarket (Types 21, 47, and 86)  
Whole Foods Fashion Island

# **Attachment No. ZA 4**

Police Department Memo

**City of Newport Beach  
Police Department**

**M e m o r a n d u m**

May 10, 2012

**TO:** Benjamin Zdeba, Planning Technician

**FROM:** Detective Brian Haas

**SUBJECT:** Whole Foods Market, 415 Newport Center Drive  
Use Permit No. UP2012-006 (PA2012-170).

At your request, the Police Department has reviewed the project application for Whole Foods Market located at 415 Newport Center Drive, Newport Beach. Per the project description, the applicant is requesting a minor use permit to allow the establishment of a Type 47 (On-Sale General for Bona Fide Public Eating Place) ABC license for a restaurant within the new Whole Foods Market.

Alcohol would be served at two dining locations within the store. The 689 square foot dining area will offer a full line of alcoholic beverages and the 1,114 square foot dining area will offer beer and wine only. The hours of operation for the restaurant areas will be from 11 a.m. to 10 p.m. daily, although the supermarket itself will be open from 7 a.m. to 11 p.m. daily

The applicant will apply for a Type 47 (On-Sale General for Bona Fide Public Eating Place) license with the Department of Alcoholic Beverage Control. This license includes beer, wine and distilled spirits for consumption on the licensed premises. The license will be conditioned appropriately to protect the health, safety and welfare of the community.

I have included a report by Crime Analyst Paul Caroline Staub that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that this new location is within an area where the number of crimes is at least 154% above the City wide reporting district average. Additionally, this location is also within an RD that is over the Orange County per capita of ABC licenses. This RD amounts to 4.91% of DUI/Drunk arrests made in the entire City.

**Applicant History**

Whole Foods Market is known for the very high grade of natural and organic food, beverage, grocery, and related products that it sells. Whole Foods Market opened its first store in 1980 in Austin, Texas, and considered a leader in natural and organic foods with more than 310 stores in the United States and United Kingdom. Whole

Foods Market actively seeks out the finest natural and organic foods available and maintains the strictest quality standards in the industry. Whole Foods Market will cater to the same upscale, discerning customer base that frequent the current businesses within Fashion Island.

### **Recommendations**

The Police Department has no objection to the operation as described by the applicant. With the below listed conditions in place, the Police Department does not feel that the operation will have a negative impact on the community and police services.

### **Signs and Displays**

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

### **Hours of Operation**

The proposed hours of operation for the two restaurants are from 11 a.m. to 10 p.m. daily.

### **Security**

The Police Department has no recommendations. This location lies within Fashion Island, which currently has security operations in place.

### **Employee Training**

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

### **Additional Comments**

For the purposes of this application, staff may also want to consider establishing conditions that would require a Special Event Permit. A Special Event Permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation.

For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form of contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

### **Other Recommended Conditions**

In addition, the Police Department has determined that the following conditions would be appropriate for the Conditional Use Permit for the business:

1. Approval does not permit Whole Foods Market to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a use permit.
2. Sales, service and consumption of alcohol shall be permitted only between the hours of 11 a.m. and 10 p.m. daily.
3. Petitioner shall post signs measuring 12" by 12" with lettering no smaller than 2 inches in height that read, "No Alcoholic Beverages Beyond This Point" at all exits leading from the restaurant areas to the market area.
4. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
- ~~5. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed.~~
6. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
7. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
- ~~8. There shall be no live entertainment allowed on the premises.~~
9. There shall be no dancing allowed on the premises.
10. Strict adherence to maximum occupancy limits is required.
11. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.

If you have any questions, please contact Detective Brian Haas at (949) 644-3709.



Dale Johnson, Captain  
Detective Division Commander



Brian Haas, Detective  
Vice/Intelligence/ABC



# NEWPORT BEACH POLICE DEPARTMENT

870 Santa Barbara, P.O. Box 7000, Newport Beach, CA 92658-7000

## MEMORANDUM

May 9, 2012

**TO:** Benjamin M. Zdeba, Planning Technician

**FROM:** Caroline Staub, Senior Crime Analyst

**SUBJECT:** Alcohol Related Statistics

At your request, our office has reviewed police services data for the Whole Foods Market at 415 Newport Center Drive. This area encompasses our reporting district (RD) number 39 as well as part of Census Tract 630.08. This report reflects City of Newport Beach crime data for calendar year 2011, which is the most current data available.

### Calls for Service Information

City wide there were approximately 65,411 calls for police services during this time, of which 4,421 were in RD 39. A "call for service" is defined as *any citizen contact of the police department which results in the dispatching of a unit or causes the contacted employee to take some sort of action*, such as criminal investigations, alarm responses, traffic accidents, parking problems, animal control calls, etc.

### Crime Information

There were 5,751 crimes reported to the Newport Beach Police Department during this period. Of this total, 2,408 were Part One Crimes. Part One crimes are the eight most serious crimes (*Homicide, Forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Auto Theft and Arson*) as defined by the FBI in the Uniform Crime Reports. The remaining 3,343 reports were Part Two crimes. The Part One crime rate for the entire city during this same period was 2,820.46 per 100,000 people. The national Part One crime rate was 3,345.52<sup>1</sup> per 100,000 people.

Crimes	RD 39	Newport Beach <sup>2</sup>	California <sup>1</sup>	National <sup>1</sup>
<b>Part 1</b>	191	2,408	1,146,072	10,329,135
<b>Part 2</b>	195	3,343	N/A	N/A
<b>Crime Rate</b>	8,500.22	2,820.46	3,076.38	3345.52

This reporting district had a total of 386 reported crimes as compared to a city-wide reporting district average of 152 reported crimes. This reporting district is **234 crimes over** or **154% above** the city-wide reporting district average.

<sup>1</sup> Figures based on the 2010 Uniform Crime Reports, which is the most recent edition.

<sup>2</sup> The Newport Beach population figure used for calculations is 85,376, as estimated by the CA Department of Finance.

### ABC License Information

The number of active ABC licenses in this RD is 35, which equals a per capita ratio of one license for every 64 residents. This location is within an RD that is over the Orange County per capita average of ABC licenses.<sup>3</sup>

### Arrest Information

In 2011, there were 64 DUI/Drunkenness arrests in RD 39 compared to 1,304 DUI/Drunkenness arrests for the entire city. This RD amounts to 4.91% of the DUI/Drunk arrests made in the entire City. According to a recent national study by the Department of Justice, more than 36% of adult offenders convicted of crimes in 2009 had been drinking at the time of their arrest.

Arrests	RD 39	Newport Beach	California <sup>1</sup>	National <sup>1</sup>
DUI/Drunk	64	1,304	4,663	1,972,941
Total Arrests	188	3,198	1,357,573	13,120,947

### Additional Information

The Alcoholic Beverage Outlets ordinance states that the Planning Commission shall consider the crime rate in the adjacent reporting districts. The three adjacent reporting districts requested are RD 38, RD 41, and RD 43.

Measure	RD 38	RD 41	RD 43
Part 1 Crimes	26	54	23
Part 2 Crimes	20	111	25
Crime Rate	1,157.09	2,403.2	1,023.58
Arrests (DUI/Drunk)	6	36	6
Total Arrests	15	66	20
Calls For Service	728	2066	885
Active ABC Licenses	1	9	5
Per capita license ratio	2,247	250	450

If you are in need of any further assistance, please feel free to contact me.

Sincerely,



Caroline Staub

Senior Crime Analyst

Newport Beach Police Department

(949) 644-3791

[cstaub@nbpd.org](mailto:cstaub@nbpd.org)

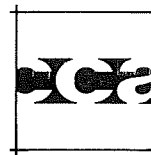
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<sup>3</sup> The number of active ABC licenses is the total of all types of licenses known to the police department as of the date of this document. As of June 30, 2011 the Orange County average of active, retail ABC licenses was one license for every 518 residents. (5,839 licenses and a population of 3,018,963)

# **Attachment No. ZA 5**

Plans





Carlie  
Coatsworth  
Architects, Inc.

2495 Campus Drive  
Second Floor  
Irvine, California 92612  
Phone: 949.833.1290  
Fax: 949.833.1140  
www.carliecoatsworth.com

PA2012-050 for UP2012-006  
415 Newport Center Drive  
Mrs. Goochs Natural Food Mkts, dba Whole Foods Market

IRVINE COMPANY | RETAIL PROPERTIES

LANDLORD IMPROVEMENTS FOR  
**FASHION ISLAND**  
BUILDING 461  
EXTERIOR IMPROVEMENTS  
461 NEWPORT CENTER DRIVE  
NEWPORT BEACH, CA 92660

REVISIONS:  
16 NOVEMBER, 2011  
ISSUED FOR PLAN CHECK  
17 JANUARY, 2012  
PC CORRECTIONS & OWNER'S REVISIONS  
28 JANUARY, 2012  
BULLETIN #1:  
ISSUED CONSTRUCTION SET

PLAN CHECK #: 2244-2011

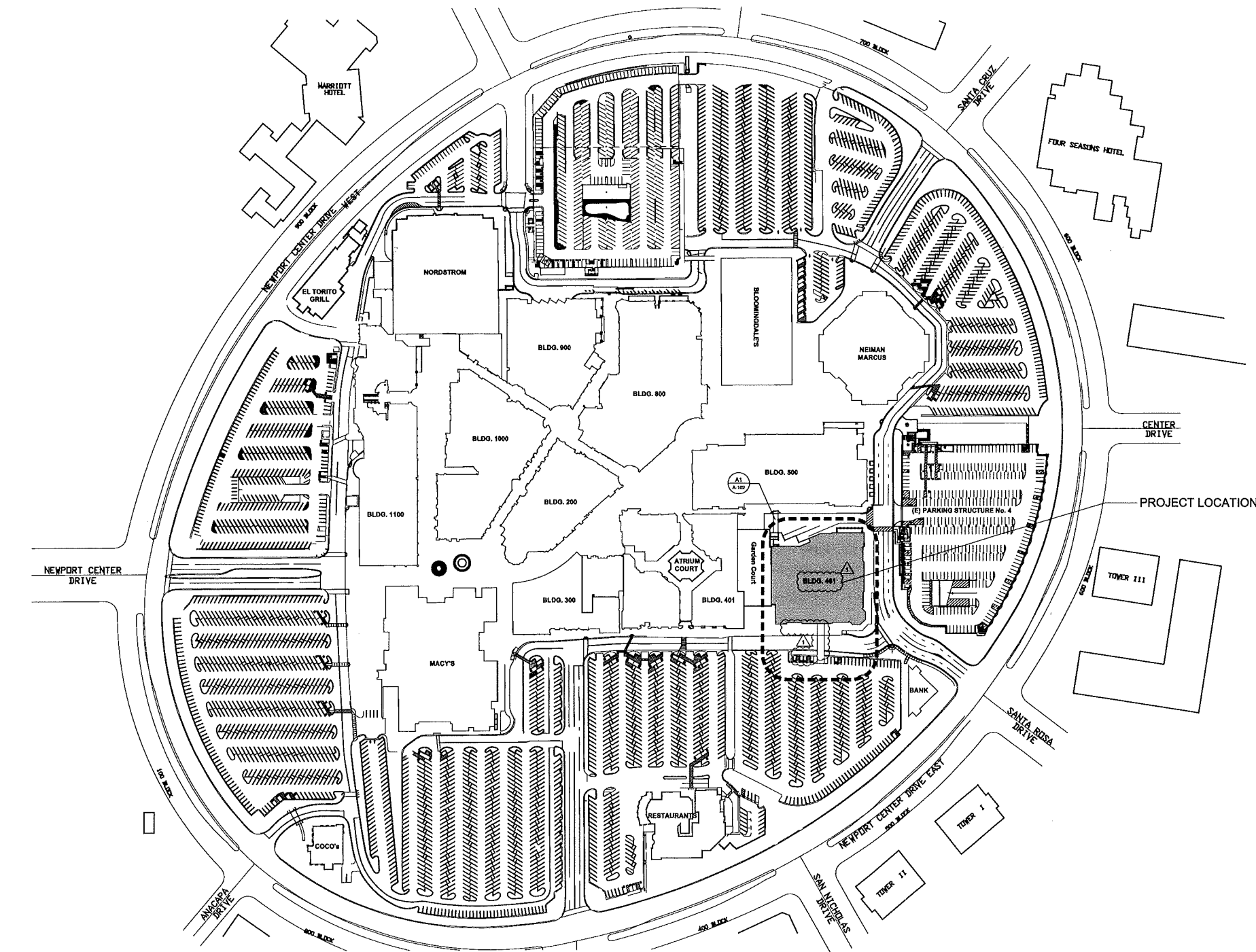
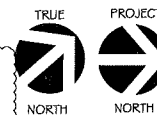
PROJECT: 11089.01  
FILE: A-101.DWG  
DATE:  
DRAWN BY:  
SCALE: AS NOTED

SHEET TITLE:  
KEY PLAN

**A-101**

FOR REFERENCE ONLY

NOTE:  
REFER TO P. 28 1095-2009 & 1096-2007 FOR  
PREVIOUS PATH OF TRAVEL APPROVALS.  
REFER TO P. 28 2234-2011 FOR RECENT PATH OF  
TRAVEL UPGRADES.



**A1 KEY PLAN (FOR REFERENCE ONLY)**

SCALE: 1" = 150'-0"

PA2012-050 for UP2012-006  
415 Newport Center Drive  
Mrs. Goochs Natural Food Mkts, dba Whole Foods Market



TEENANT IMPROVEMENT  
WHOLE FOODS MARKET  
at  
FASHION ISLAND  
415 NEWPORT CENTER DRIVE  
NEWPORT BEACH, CALIFORNIA

REVISIONS:

PROJECT: 111179  
FILE: A-110.1.DWG  
DATE: -  
DRAWN BY: -  
SCALE: -AS NOTED  
SHEET TITLE:  
FLOOR PLAN

A-110.1

SHEET - OF -

SPACE	AREA (S.F.)	MAX. NO. OF SEATS
FULL SERVICE DINING	689	37
CASUAL DINING	1,114	34
SALES FLOOR	18,875	N/A
BEER/KEG COOLER	54	N/A
WINE & TAP ROOM EMPLOYEES ONLY	187	N/A
WINE LOCK UP	62	N/A
OFFICE/ STORAGE/ FOOD PREP/ EMPLOYEE ONLY	11,459	N/A
TOTAL	32,440	71

SPACE	AREA (S.F.)	MAX. NO. OF SEATS
OUTDOOR PATIO- FULL SERVICE DINING	1,315	70
OUTDOOR PATIO- CASUAL DINING	2,234	121
TOTAL	3,549	191

TOTAL INTERIOR RESTAURANT/ ALCOHOL SERVICE	1,803	71
TOTAL EXTERIOR RESTAURANT/ ALCOHOL SERVICE	3,549	191
TOTAL	5,352	262

#### B7 AREA CALCULATIONS

- ACCESSIBLE SEATING  
WHERE REQUIRED BY CODE.  
WHEN NOT IN USE (2)  
REGULAR SEATS / (3)  
SPACES FOR BENCHES MAY  
REPLACE HANDICAP  
SEATING LOCATION.
- LIQUOR STORAGE
- EXIT SIGN
- FIRE RATED WALL
- PARTIAL HEIGHT WALL
- NEW WALL
- EXISTING WALL

#### A7 LEGEND

#### A1 FIXTURE PLAN

SCALE: 1/8" = 1'-0"